IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5314 OF 2005

Mr.Sayad Ali Hassnain & Ors. .. Petitioners

Vs.

The Deputy Registrar & Ors ..Respondents

Mr.G.S.Nagarsekar i/b M/s.Jhangiani Narula & Associates for the petitioners

Mr.A.H.Palekar A.G.P. for respondent no.1, 3 and 4

Mr.C.S.Sawant,Sr.Counsel i/b Mr.V.C.Ghosalkar for respondent no.5

CORAM : S.U.KAMDAR, J
DATED : 2ND DECEMBER, 2005

P.C.:

1. Rule.

2. Returnable forthwith. The impugned order in the present petition is for appointment of Administrator in exercise of power under section 78 of the Maharashtra Co-operative Societies Act, 1960 and the appeal and revision therefrom have been rejected. Originally there were 16 charges indicating non compliance with the various requirements of Co-op.Societies before the

Appellate Authority. Appellate Authority agreed with the petitioners and came to the conclusion that most of the charges are insignificant in nature and pertain to the tenure of an earlier managing committee. The said Managing Committee has been already changed by fresh election. However, the Appellate Authority has dismissed the said appeal on the sole ground that the bond is not filed by the earlier Managing Committee members within a period of 15 days being the time limit prescribed under section 73(1AB) of the Maharashtra Co-op.Societies Act 1960. The said order has been upheld in the revision.

3. I am of the opinion that merely on the ground of non filing of bond within the time, the power of appointment of Administrator cannot be invoked. It is not in dispute that the petitioners who are the members of the present Managing Committee have already filed the bond with the Registrar in accordance with the provisions of the said act and provisions are duly complied with. In that view of the matter, I am of the opinion, that the Administrator could not have been appointed.

The learned counsel for the petitioners gives an undertaking to this court that all the technical violation and requirements as pointed out by the Registrar shall be complied with as required under the law within 3 months from today. Undertaking to that effect has been accepted. The learned counsel for the petitioners further states that some of the records are in possession of the administrator. The learned A.G.P. states that the record will be handed over within 3 weeks from today. In that view of the matter, present petition succeeds. The impugned order passed by the authorities is set aside and the appointment of Administrator is quashed. Petitioners are permitted to run the society and petitioners' undertaking as given hereinabove is accepted. Petition is disposed of accordingly. No order as to costs.